

Memo

From: Terry Whiteside
Date: July 13, 2007
Re: **Transportation Report**



EDITOR'S NOTE: RAIL SHIPPERS ARE WINNING BATTLES WITH THE RAILROADS IN CONGRESS – SCORE ANOTHER VICTORY FOR RAIL CUSTOMERS (TWO IN TWO WEEKS) PLUS RAILROADS HAVE TO APOLOGIZE TO CHAIRMAN OBERSTAR FOR 'STRETCHING THE TRUTH AGAIN'

SENATE APPROPRIATIONS COMMITTEE VOTES TO INCLUDE SENATOR DORGAN'S AMENDMENTS ON RAIL CUSTOMERS ISSUES

July 11th, the full Senate Appropriations Committee voted on the transportation appropriations bill for F2008. During committee consideration, Senator Dorgan (D-ND) offered the two attached amendments that were adopted by voice vote after some discussion, with little dissent. Senator Dorgan, as usual, was very eloquent in his advocacy and description of the problems confronting rail customers.

One amendment caps filing fees for rate reasonableness cases at the filing fee for a civil complaint filed in federal district court, which currently is \$350. This reduces the filing fees for "stand alone cost" cases from \$178,200 to \$350.

One amendment directs the Inspector General of the Department of Transportation to investigate rail service disruptions that have occurred since 2004 and report to Congress on regulatory and legislative changes that might be needed to avoid these types of incidents in the future.

We thank Senator Dorgan for his leadership on this matter. Also thanks go out to Senator Patty Murray (D-WA), who chairs the Transportation, Housing and Urban Development and Related Agencies subcommittee of the Senate Appropriations Committee, for supporting Senator Dorgan's initiatives.

The Alliance for Rail Competition, American Chemistry Council, EEI, APPA, and CURE all working together to gain the legislative victory.

THIS VICTORY FOLLOWS THE ONE TWO WEEKS AGO THAT WAS PREVIOUSLY REPORTED IN TRANSPORTATION REPORT 06-29-07 - CONGRESSWOMAN TAMMY BALDWIN FROM WISCONSIN – IN THE HOUSE ENERGY & COMMERCE COMMITTEE MARK UP OF THEIR GLOBAL CLIMATE CHANGE LEGISLATION WHICH THE RAILROADS OPPOSED AND LOST

Shipper groups scored a major victory the last week in June during the House mark-up of the Energy Legislation (House Energy & Commerce Committee). Included in the legislation was a provision by Cong. Tammy Baldwin (D-WI), which would require the Department of Transportation and the Department of Energy to conduct a study of the competitive environment for moving an increasing amount of biofuels and whether there are legal authorities to prevent railroads from charging unreasonable rates where competitive environment is not present. The provision had the support of Chairman John Dingell (D-MI) and Subcommittee Chairman Rick Boucher (D-VA), and is very similar to the provision included by Sen. Dorgan (D-ND) in the recently passed Senate biofuels legislation.

FROM *TRAFFIC WORLD*: AAR's BACKTRACKING AND HAS TO ISSUE APOLOGY TO CHAIRMAN OBERSTAR

"The clearest signal yet of the high stakes for the railroads in Congress came in a sharp exchange that began with a strongly worded e-mail from rail industry officials House transportation and Infrastructure Committee Chairman James L. Oberstar termed "*despicable*" in *its language*.

It ended with the Association of American Railroads conceding it was at least off track and with the railroads now looking to the Senate to stave off legislation the industry fears would add dramatic new operating restrictions, and costs.

In its e-mail sent to members of the committee, AAR compared legislation that would give the Surface Transportation Board more rail oversight powers with letting the federal government "take your bedroom."

"You may not even have a spare bedroom, but you will still have to give him a room, first dibs on the bathroom and first dibs on the kitchen," said the e-mail. "He doesn't pay you for utilities, upkeep or the mortgage."

In a public session on the bill, Chairman Oberstar, D-Minn., said the AAR e-mail 'distorts in a despicable manner the language of the bill.'

In a letter to Oberstar afterward, AAR President and CEO Edward R. Hamberger expressed regret for the e-mail.

Oberstar, however, doesn't appear placated by AAR's explanation."

"They, the AAR, simply got hysterical over this," he told reporters.

**CREDIT SUISSE REPORT DATED JULY 2007 – THE
MAJORITY OF RAIL SHIPPER SUPPORT INCREASING
COMPETITIVE CHANGES (WHAT THE RAILROAD CALL ‘RE-
REGULATION’)**

“Re-regulation Concerns Mount— In light of re-regulation legislation currently being considered in Washington D.C., we thought it would be interesting to gauge the shippers’ perspective. Slightly more than half of participants (52%) indicated that they are in support of re-regulation. We find these results interesting as the majority of shippers also indicated in Question 7 that they believe the railroads are not spending enough on capacity expansion, in our opinion re-regulation would likely lead to further cuts in capital spending. Nevertheless, the results emphasize the need for the rails to build shipper support against re-regulation.”

FLASH - 2 NEW CO SPONSORS ON HR 2125 BRINGING THE TOTAL TO 47!

REP GARRETT, SCOTT NJ - 5 – 7/12/07

REP MURPHY, PATRICK J. – PA - 8 – 7/12/07

RAIL SHIPPER LEGISLATIVE VICTORIES THUS FAR – BENEFIT ALL RAIL CUSTOMERS

Sponsor	Amendment	Vehicle	Senate Committee	Senate	House Committee	House
Sen. Byron L. Dorgan (D-ND)	Cap STB filing Fees at \$350	FY2008 Transportation Appropriations Bill	7/11			
Rep. Richard H. Baker (R-LA)	Study of rail pricing policies	Transportation Energy Security and Global Climate Change Bill HR 2701			6/20	
Rep. Richard H. Baker (R-LA)	Railroad report on infrastructure improvements	Rail Safety Improvement Bill HR 2095			6/14	
Sen. Byron L. Dorgan (D-ND)	Transportation Dept. Inspector General Annual Report on Rail Service Disruptions	FY2008 Transportation Appropriations Bill	7/11			
Sen. Byron L. Dorgan (D-ND)	Study on Ethanol infrastructure and transport	Renewable fuels and energy efficiency Bill HR6	6/14	6/21		
Rep. Tammy Baldwin (D-WI)	Study of ethanol infrastructure and transport	Alternative fuels and energy efficient vehicles Bill (Unassigned)			6/28	

**IMPORTANT: THE TIME IS NOW FOR YOUR SUPPORT –
ALL RAIL SHIPPERS CAN HELP US HELP OURSELVES**

**WHITESIDE & ASSOCIATES URGE ALL OF YOU TO MAKE CONTACT WITH YOUR
CONGRESSMAN OR SENATOR REQUESTING SUPPORT FOR HR 2125 AND S.953 –
RAIL COMPETITION AND SERVICE IMPROVEMENT ACTS OF 2007**

PLEASE DO IT BEFORE THE AUGUST CONGRESSIONAL RECESS